

## **MINUTES**

### **MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON TAXATION**

#### **SUBCOMMITTEE ON SALES TAX**

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**Call to Order:** By **CHAIRMAN BOB DEPRATU**, on March 4, 1999 at 11:15 A.M., in Room 413/415 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Bob DePratu, Chairman (R)  
Sen. Bill Glaser (R)  
Sen. Barry "Spook" Stang (D)

**Members Excused:** None

**Members Absent:** None

**Others Present:** Terry Johnson, Legislative Fiscal Division  
Madalyn Quinlan, Office of Public Instruction  
Jerry Leonard, Department of Revenue  
Judy Paynter, Department of Revenue  
Gordon Morris, Montana Association of Counties  
Sen. Alvin Ellis Jr.

**Staff Present:** Sandy Barnes, Committee Secretary  
Lee Heiman, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Bills Discussed: SB 135, 3/3/1999; SB143,  
3/3/1999; SB157, 3/3/1999

#### **DISCUSSION ON SB 157**

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**Ms. Quinlan** started by clarifying that this bill will eliminate the 95 mills, the county retirement fund, the county transportation fund, and that there is full facility reimbursement, but there is no longer guaranteed tax base aid for

school district General Fund budgets or retirement, and **Mr. Morris** said that was correct.

**Ms. Quinlan** referred the committee to page 84, line 29, the reference to school equalization aid, saying that if a child attended a school outside of the child's county of residence, the tuition would be paid from school equalization aid from the child's district of residence. She said there is not a concept of school equalization aid, so "school equalization aid from" should be struck, and then the sentence would read, "child attending a school outside the child's county of residence must be financed by the child's district of residence."

Moving on to page 85, line 3, **Ms. Quinlan** said "from school equalization aid or" should be deleted, and on lines 1 and 2 above that, take out "out of the money."

**Ms. Quinlan** said she had a concern that the state does, in effect, presently pay for students that are placed by state agencies. Such as those in a group home and are placed in a school in a district where they don't live. There needs to be a provision to have the state continue to meet that obligation, otherwise it is shifted into the child's district of residence. There also needs to be something about the extra costs related to a child with special needs. She would like to look more closely at **SB 422** and discuss it with people who are more knowledgeable and then offer this committee some language regarding that.

**Ms. Quinlan** then moved on to page 89, the section referring to the computation of the General Fund levy requirement. She said that in the title of the section and again on the bottom of the page, there are several places where the over-BASE levy requirement is discussed. She said this distinction is no longer needed, that reference to the General Fund net levy requirement is all that is necessary, so this should be changed accordingly.

**Ms. Quinlan** said the over-BASE levy refers to the General Fund levy between the BASE budget and the maximum budget. There are school districts which are actually spending more than the maximum because of a provision that was put in law several years ago. That levy is not considered the over-BASE levy, it is an additional levy. Consequently, just referring to the General Fund net levy requirement takes care of both of those pieces, and that could be accomplished by striking "over-BASE budget" and inserting "net."

**Ms. Quinlan** said that (2) on page 89 could be deleted because it is repeating language that, there is no longer guaranteed tax base aid, It has already been covered in (1) of that section.

She suggested the same change at the top of page 90, instead of saying "over-BASE General Fund levy requirement," to say "General Fund net levy requirement." The definition of the BASE budget at the top of the page 93, line 7, defines the BASE budget, and on line 8, it says, "up to 140% of the special education allowable cost payment," and "up to 140% of" should be struck, because when the state totally funds the BASE budget, they are going to fund what is currently funded for special education; plus, the BASE budget as now defined includes a local mill levy that is a match to that funding. The sales tax money will replace both of those pieces.

Moving to page 95, line 15, **Ms. Quinlan** said this section refers to the BASE funding program. District levies provided for in 308 and 353 will no longer be a revenue source, so (d) can be struck.

**Ms. Quinlan** said there are nine elementary schools in the state that have fewer than nine students. Because they are very close to another, larger district, they are not considered isolated. State policy is that if they want to exist, they have to pay half their way. If it is the desire of the committee to strike, then lines 13 and 14 on page 95 would be the place to do that, and then also amending 20-9-303. After some discussion, the committee felt they did not want to change educational policy of the state, and **Ms. Quinlan** said there will still be a district mill levy for that portion of the BASE budget in nine schools. The committee agreed to strike line 15, page 95, but leave lines 13 and 14 intact.

**Sections 112 and 113**, no changes.

**Section 114**, Fines and penalties proceeds for school equalization:

**Ms. Quinlan** suggested that the language "state General Fund for state equalization aid" could be changed to "state General Fund." She said there are certain sources, like money off State Lands and, in the past, the 95 mill levy, that still have that tag on them that says they go into the General Fund but they are for school equalization. Unless there is a Constitutional reason to preserve it, she would suggest it be changed. If that change is made, she said on line 21, the clerk of the district court does not need to report to OPI about that money. In fact, lines 21 through 24 could be deleted. **Mr. Heiman** said he would check this section and make recommendations.

**Section 115**, Definition of and revenue for state equalization aid:

**Ms. Quinlan** said because of previous changes, page 98, line 20, should be struck.

**Section 116, Duties of board of public education for distribution of BASE aid:**

A discussion ensued about how the months' payments are made, page 99, lines 19 through 21. **Ms. Quinlan** suggested that it read "August to May" rather than "April," to accommodate ten payments. That change makes lines 29 through 27 unnecessary, and they can be struck.

**Section 117,** no changes.

**Section 118, Distribution of BASE aid and special education allowable cost payments in support of BASE funding program and state equalization for retirement - exceptions:**

**Ms. Quinlan** referred the committee to page 101, line 19, and said all of (2) could be struck. She said this strikes a provision that allows for state advances of the BASE aid payment. There should be no need for that because every district is going to get 10% of state payments every month, Therefore every district should be on equal footing. She said that other parts of the bill have already taken out the provision for state advances. She suggested to **Mr. Heiman** that for cleanup, (1) and (3) be combined.

**Section 119, Estimation of state equalization aid for budget purposes:**

**Ms. Quinlan** suggested that this whole section is redundant to other parts of statute now and should be repealed.

**Sections 120, 121, 122, 123, 124, 125, 126 and 127,** no changes.

**Section 128, Computation of net levy requirement - procedure when levy inadequate:**

**Ms. Quinlan,** referring to page 110, line 21, said she would double-check this portion.

**Section 129,** no changes.

**Section 130, Litigation reserve fund:**

**SEN. DEPRATU** suggested that over-BASE should be changed to coordinate with previous language changes, using General Fund levy requirement.

**Sections 131 and 132, 133,** no changes.

**Section 134, 135 and 136:**

**Ms. Quinlan** questioned the policy issue on page 119. She said the overschedule amount in the transportation fund budget of a district may not exceed the amount of expenditures for Fiscal Year 1999, except that the Superintendent may approve a request to exceed the budget limitation if it is an emergency. She wondered if the committee wanted to say that a school district cannot spend any more if their transportation costs go up. She said she would prefer not to have the limitation in there, but if the limitation is going to stay, she would like the district to be able to adopt a levy for their transportation needs when necessary. **Mr. Heiman** said he would check on this issue.

**Section 137,** no changes.

**Section 138, 139, 140 and 141:**

**Ms. Quinlan**, referring to line 29, wondered whether striking "a mandatory mill levy on the community college district" is different than an adult education levy, whether the mill levy for community colleges is gone. After some discussion, **Mr. Heiman** said he would check and clarify this section.

**ADJOURNMENT**

Adjournment: 12:09 P.M.

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SEN. BOB DEPRATU, Chairman

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SANDY BARNES, Secretary

GD/SB

**EXHIBIT (tas49bad)**